



An Overview of the Tennessee Human Rights Commission including Per Se Violations

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History

- 1963: Governor Frank G. Clement signed Executive Order 18 creating the Tennessee Human Relations Commission.
- 1967: Legislature created the Tennessee Commission on Human Development. Also added a prohibition against sex discrimination.
- 1978: The Tennessee Human Rights Act (THRA) became law, transforming to an enforcement agency.
- 1979 & 1980: Amendments to THRA expanded protections to include disability and age.



History

- 1983: The name officially became the Tennessee Human Rights Commission (THRC).
- 1984: Provisions prohibiting discrimination in Housing added.
- 1990: Housing provisions expanded to include familial status and disability bases.
- 2009: Law expanded to give Commission authority to ensure all state agencies receiving federal funding comply with Title VI of the Civil Rights Act of 1964.



Laws Enforced

TENNESSEE HUMAN RIGHTS COMMISSION enforces:

- Tennessee Human Rights Act
- Tennessee Disability Act
- Title VI of the Civil Rights Act of 1964



Areas of Coverage

Housing- Race, Color, National Origin, Religion, Creed, Familial Status, Sex, Disability and Retaliation

Employment- Race, Color, National Origin, Religion, Creed, Sex, Age, Disability and Retaliation

Public Accommodation- Race, Color, National Origin, Religion, Creed, Gender and Retaliation

Title VI- Race, Color, National Origin and Retaliation



Mission and Purpose

- The Commission is comprised of a 15 member Board of Commissioners and a staff of 29 in four offices - Nashville, Memphis, Chattanooga and Knoxville.
- It is the mission of the TN Human Rights Commission (THRC) to safeguard individuals from discrimination through enforcement and education.
- THRC's primary activities include:
 - Receipt, investigation, mediation, and litigation regarding allegations of discrimination in the areas of housing, employment, public accommodation.
 - Providing education and outreach to individuals about their rights with respect to discrimination.



Partnerships

The Commission has had partnerships with the U.S. Equal Employment Opportunity Commission (**EEOC**) since 1979 and the U.S. Department of Housing and Urban Development (**HUD**) since 1994.



THRC Jurisdiction – Employment

- Employers with 8 or more employees
 - One employee for retaliation, disability.
- Allegations must be filed within 180 days unless it is a continuing violation.
- Must allege basis.
- Must identify issue:

Hiring

Training

Leave

Suspension

Promotion

Benefits

Discipline

Harassment

Wages

Advertisement

Discharge

Layoff or Recall



THRC Complaint Investigation Process

- Intake Process
- Mediation
- Investigation
- Settlement
- Legal Review
- Final Determination
- Appeal Options



Per Se Violations

- Policy or practice that is discriminatory on its face which is not the basis of the complaint filed.
- Bilateral Agreement:
 - Fix the violation;
 - Training;
 - THRC/EEOC agrees not to file a Commission-initiated charge or lawsuit.



Example#1

Policy:

All daycare employees must retire by the age of 70.



Example#2

Employee Handbook:

A female employee who has been employed by the company for at least twelve months as a full-time employee is eligible for unpaid leave for adoption, pregnancy, childbirth and nursing an infant.

T.C.A. § 4-21-408



Example #3

Dress Code:

Employees cannot wear any of the following brands: Akademiks, Cooji, Enyce, LRG, Polo, Rocawear, and Sean Jean.



Example #4

Job Application Questions:

- Do you have any physical impediments that would impair your ability to perform this job?
Yes/No
- Do you have physical defects? If yes, please describe.
- Do you have a pre-existing condition which will interfere with or limit your ability to perform the job? Yes/No. If yes, please explain.



Example#5

English-Only Policy.

When conducting business in the front office, all employees must speak English with customers, coworkers and supervisors who only speak English. This policy does not apply to casual conversations when employees are not performing a job duty.

T.C.A. § 4-21-401(c)



Example #6

- Medical Documentation and Employees' Personnel Files



OK or Violation? Job Applications

- Race?
- Education: List the institute attended, degree obtained and dates of graduation.



OK or Violation?

Job Applications cont.

- Height and Weight?
- Please list your marital status and number and age of children.



OK or Violation?

Job Applications cont.

- How much alcohol do you drink in a week?
- Have you ever been arrested or convicted of a crime?



QUESTIONS?





Contact Information

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